

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JUAN ACOSTA,

Case No. 2:15-cv-02397-MMD-GWF

Petitioner.

ORDER

v.

JANELLE REEVES, et al.

Respondents.

Petitioner has submitted an application to proceed *in forma pauperis* (ECF No. 1) and a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). The Court finds that petitioner is unable to pay the filing fee. The Court has reviewed the petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The Court must dismiss this action.

Petitioner has filed the petition on behalf of two children who have been removed from his care and placed in the care of respondents. His petition has two fatal defects.

First, petitioner cannot litigate on behalf of the children. Petitioner is not an attorney, and he has no authority to represent anyone other than himself. *Russell v. United States*, 308 F.2d 78, 79 (9th Cir. 1962). See also *McShane v. United States*, 366 F.2d 286, 288 (9th Cir. 1966).

Second, petitioner cannot challenge the constitutionality of the procedures used to remove the children from his care in a federal habeas corpus petition. 28 U.S.C. § 2254 does not confer habeas corpus jurisdiction upon child-custody decisions of state courts. *Lehman v. Lycoming Cty. Children's Servs. Agency*, 458 U.S. 502, 516 (1982).

Reasonable jurists would not find the Court's conclusions to be debatable or wrong, and the Court will not issue a certificate of appealability.

It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 1) is granted. Petitioner need not pay the filing fee of five dollars (\$5.00).

It is further ordered that the Clerk of the Court file the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

It is further ordered that this action is dismissed. The Clerk of the Court is directed to enter judgment accordingly and close this action.

It is further ordered that a certificate of appealability is denied.

DATED THIS 12th day of October 2016.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE